

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
EASTERN DIVISION

Criminal No. 4:08-CR-55-F  
Civil No. 4:11-CV-110-F

JASON LAMON KELLY,  
Petitioner,

v.

UNITED STATES OF AMERICA,  
Respondent.


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ORDER

In response to this court's order of May 13, 2011 [DE-111], petitioner, Jason Kelly has moved for relief from his sentence pursuant to 28 U.S.C. § 2255. *See* [DE-112 & -117]. That is, Kelly has indicated that he wishes his motion for relief [DE-110] to be treated as a § 2255 motion.<sup>1</sup>

Having conducted an examination of petitioner's motion [DE-112, and -117] pursuant to Rule 4(b) of the Rules Governing § 2255 Proceedings and it appearing that dismissal is not warranted at this time, the United States Attorney is DIRECTED to file an Answer pursuant to Rule 5, Rules Governing § 2255 Proceedings, or to make such other response as appropriate to the above-captioned § 2255 Motion to Vacate, Set Aside or Correct Sentence, within **forty (40)** days of the filing of this order. Kelly's motion for relief [DE-110] is DENIED as moot.

SO ORDERED. This, the 9th day of November , 2011.

  
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JAMES C. FOX  
Senior United States District Judge

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<sup>1</sup> Kelly filed a corrected § 2255 memorandum [DE-117] in compliance with Magistrate Judge Webb's Notice of Deficiency entered June 24, 2011. The documents comprising Kelly's § 2255 motion, therefore, are [DE-112] and [DE-117].